

October 2nd 2017

**Objection to the Settlement as a whole
in the action Filannino-Restifo v. TD Bank, N.A., No. 16-cv-2374**

1. Name: Yuri Aaron Iozzo, previously known as Egor Svidritskiy (name change document is attached – **Exhibit #1**).

Address: 35 Cedar Street, Auburn, MA 01501

Email address: E.SVIDRITSKIY@GMAIL.COM

Cell phone: 508-981-7322

RECEIVED

OCT - 6 2017

AT 8:30
WILLIAM T. WALSH CLERK

2. I am a class member in the action Filannino-Restifo v. TD Bank, N.A., No. 16-cv-2374 because I held an account (under my previous name legal Egor Svidritskiy; name change document is attached – **Exhibit #1**) at TD Bank during the Class Period and used Penny Arcade. As a proof, I include a statement from the TD Bank account (**Exhibit #2**) and an email from Class Administrator acknowledging my Class Member status (**Exhibit #3**).

3. I object to the settlement in the action Filannino-Restifo v. TD Bank, N.A., No. 16-cv-2374 ("Settlement").

4. After carefully reading and considering all matters in the Settlement, I decided to object the Settlement as a whole because of following reasons:

- A. I find a proposed multiplier of **0.26%** to be **under-estimated** (I provide an explanation further).
- B. The Settlement Agreement doesn't describe the protocol used to test Penny Arcades. The "extensive third-party testing of machine accuracy" was possibly performed under a very limited set of conditions. An extremely **important factor** - coin counting interruption due to filling up of coin bags – appears to be **omitted** (explained further).
- C. I am a scientist, so I feel entitled to question, scrutinize and review the third-party testing of Penny Arcades.
- D. I present a **verified case of Penny Arcade producing a 13.98% mistake**. I filed a "30 Days Demand Letter" with TD Bank and a complaint with State of Massachusetts (a copy of the Demand Letter is attached – **Exhibit #4**; a copy of my email complaint and response from the State of Massachusetts is attached - **Exhibit #5**) after on November 28th 2011 the Penny Arcade (TD Bank, 1227 Main St, Worcester, MA 01603) gave me a deposit slip for \$645.12 in exchange for exactly \$750 in dimes (I knew exact amount because all deposited coin came from **three Federal Reserve boxes** of dimes, \$250 each). **Error equaled to 13.98%**.

There was no fee involved because I was a customer of TD Bank. The deposit slip had no mentioning of any fees. I took cash for the full amount of the deposit slip and complained to manager that my slip from the Penny Arcade was \$104.82 short. Manager told me that they check machine twice a day, but they encountered several cases when machine malfunctioned. So, they proposed to wait 4-6 weeks until coin bags from the Penny Arcade sent to the Federal Reserve and counted there. Several weeks later, the difference of \$104.82 was credited to my TD Bank account (statement from TD Bank account, showing \$104.82 credit, is attached – **Exhibit #2**), meaning that **TD Bank found extra coins in Penny Arcade coin bags**.

It is very suspicious that deposit slip showed the dollar amount ending with .12, since there were no pennies in my deposit.

In my case, **coin counting was interrupted because the Penny Arcade requested a coin bag replacement**, because the bag was full. I suspect that such interruption, together with bag replacement in the middle of the process, **introduced** such a huge error.

- E. The Discovery of the proposed Settlement never specifically mentions any testing with coin amounts exceeding the capacity of a coin bag. The possibility, that **coin counting interruption** due to filling up of coin bags can **introduce an error 50 times higher** than an error during an uninterrupted coin count, **was never explored**.
- F. It appears from the Settlement Agreement, that **coin counting interruption** due to filling up of coin bags **was never tested**. It appears that the Discovery process didn't cover any situation when a Penny Arcade coin counting was interrupted by a human or by a request for a bag replacement made by the machine itself.
- G. Replacement of a filled bag was likely a common procedure during the Penny Arcade operation. It is reasonable to expect that sometimes bags fill up in the middle of coin counting and interrupt the process.
- H. Unless tests show otherwise, it is reasonable to believe (based on the evidence) that if coin counting is interrupted by a Penny Arcade's request a bag replacement, an error could be **comparable to 13.98%**.
- I. **Similar situation with a 15% error**, made by a Penny Arcade (which is much higher than proposed 0.26%), **was described in Plaintiff's Complaint** (Case 1:16-cv-02374-JBS-JS, document 1, filed 04/27/16, page 5 of 13, paragraph 18). I am not aware, whether coin counting was interrupted in that case, but the situation clearly demonstrates the necessity of Penny Arcades testing in multiple regular and stress modes (like interruption due to filling up of coin bags) before making a final conclusion about the actual average error. Proposed **Settlement doesn't provide an explanation for the event involving the 15% error**.
- J. Based on existing circumstances, I think that the **Settlement is premature**. It is too small.
- K. I believe that **Class Counsel** and Class Representatives **haven't fulfilled yet their due diligence to Class Members**. Discovery process must continue. In order to verify true error rate, a **Penny Arcade has to be tested again** in situations when coin counting is interrupted due to coin bags being full. In addition, Plaintiff should request all **data about coin overages** in coin bags from TD Bank's Penny Arcades. Experts should testify whether coin overages data can also be used to determine an error rate of Penny Arcades.
- L. Experts need to provide independent testimonies explaining high error cases (13.98% and 15% errors) and explaining why such errors weren't observed during testing described in the Settlement.
- M. Reimbursement of 0.26% to class members is unfair. Based on the evidence, a Penny Arcade error could be significantly higher than 0.26% in case of coin counting interruption by a request to replace filled bags.
- N. If Settlement is approved, members won't be entitled to a fair reimbursement.
- O. Based on evidence presented above, Class Members are no winners from this Settlement. They are getting only \$0.26 per \$100 deposited via Penny Arcade, while actual damages can be much higher.

5. I haven't made any prior objections to class actions myself or with assistance of a lawyer, as far as I can recall.

6. I am not represented by a lawyer in this case.

7. I don't plan at the moment to attend and testify at the Final Approval Hearing.

8. I don't plan at the moment to have any lawyer attending or testifying on my behalf at the Final Approval Hearing.

9. I don't plan at the moment to ask any witnesses to testify at the Final Approval Hearing.

Yuri A. Iozzo



Exhibit #1

**Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department**

Worcester Division

Docket No. 14C0356CA

I, Stephen G. Abraham, Register of Probate for said County of Worcester, hereby certify, that at a Probate Court held at Worcester in and for said County on the **twelfth** day of **November, 2014** on application, and after due public notice thereof, and for sufficient reason consistent with the public interest, and satisfactory to said Court, the name of **Egor Petrovich Svidritskiy** of **Auburn** in said County, was changed as follows:

Egor Petrovich Svidritskiy

to

Yuri Aaron Iozzo

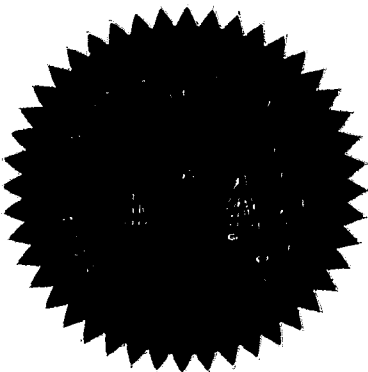
to

to

to

which name he shall hereafter bear as his legal name.

IN WITNESS THEREOF, I have hereunto set my hand and affixed the seal of said Court, this **twelfth** day of **November, 2014**.



Stephen G. Abraham, Register

How to Balance your Account

Page. 2 of 2

Begin by adjusting your account register ¹
as follows:

Your ending balance shown on this statement is:

- 1 Subtract any services charges shown on this statement.
- 2 List below the amount of deposits or credit transfers which do not appear on this statement. Total the deposits and enter on Line 2.
- 3 Subtotal by adding lines 1 and 2.
- 4 List below the total amount of withdrawals that do not appear on this statement. Total the withdrawals and enter on Line 4.
- 5 Subtract Line 4 from 3. This adjusted balance should equal your account balance.
- 6 Subtract any automatic payments, transfers or other electronic withdrawals not previously recorded.
- 7 Add any interest earned if you have an interest-bearing account.
- 8 Add any automatic deposit or overdraft line of credit.
- 9 Review all withdrawals shown on this statement and check them off in your account register.
- 10 Follow instructions 2-5 to verify your ending account balance.

| | | |
|---|-------------------|-------|
| 1 | Ending Balance | 14.82 |
| 2 | Total Deposits | + |
| 3 | Sub Total | |
| 4 | Total Withdrawals | |
| 5 | Adjusted Balance | |

| 2 | DOLLARS | CENTS |
|------------------------------|---------|----------|
| DEPOSITS NOT ON STATEMENT | | |
| | | |
| | | |
| | | |
| | | |
| Total Deposits | | 2 |

[illegible]

| WITHDRAWALS NOT ON STATEMENT | DOLLARS | CENTS |
|---------------------------------|---------|-------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| Total | | |
| Withdrawals | | |

FOR CONSUMER ACCOUNTS ONLY IN CASE OF ERRORS OR
QUESTIONS ABOUT YOUR ELECTRONIC FUNDS TRANSFERS

If you need information about an electronic fund transfer or if you believe there is an error on your bank statement or receipt relating to an electronic fund transfer, telephone the bank immediately at the phone number listed on the front of your statement or write to:

TD Bank, N.A., Deposit Operations Dept, P O Box 1377, Lewiston, Maine
04243-1377

We must hear from you no later than sixty (60) calendar days after we sent you the first statement upon which the error or problem first appeared. When contacting the Bank, please explain as clearly as you can why you believe there is an error or why more information is needed. Please include:

2. Your name and account number
3. A description of the error or transaction you are unsure about
4. The dollar amount and date of the suspected error

When making a verbal inquiry, the Bank may ask that you send us your complaint in writing within ten (10) business days after the first telephone call.

We will investigate your complaint and will correct any error promptly. If we take more than ten (10) business days to do this, we will credit your account for the amount you think is in error, so that you have the use of the money during the time it takes to complete our investigation.

INTEREST NOTICE

Total interest credited by us Bank to you this year will be reported by the Bank to the Internal Revenue Service and State tax authorities. The amount to be reported will be reported separately to you by the Bank.

FOR CONSUMER LOAN ACCOUNTS ONLY BILLING RIGHTS SUMMARY

In case of Errors or Questions About Your Bill

If you think your bill is wrong, or if you need more information about a transaction on your bill, write us at P.O. Box 1377 Lewiston, Maine 04243-1377 as soon as possible. We must hear from you, no later than sixty (60) days after we sent you the FIRST bill in which the error or problem appeared. You can telephone us, but doing so will not preserve your rights. In your letter, give us the following information:

- Ⓐ Your name and account number
 - Ⓑ The dollar amount of the suspected error
 - Ⓒ Describe the error and explain, if you can, why you believe there is an error
- If you need more information, describe the item you are unsure about.

You do not have to pay any amount in question while we are investigating, but you are still obligated to pay the parts of your bill that are not in question. While we investigate your question, we cannot report you as delinquent or take any action to collect the amount you question.

FINANCE CHARGES Although the Bank uses the Daily Balance method to calculate the finance charge on your Moneyline/Overdraft Protection account, the term "ODP" or "OD" refers to Overdraft Protection). The Bank discloses the Average Daily Balance on the periodic statement as an easier method for you to calculate the finance charge. The finance charge begins to accrue on the date advances and other debits are posted to your account and will continue until the balance has been paid in full. To compute the fin

Exhibit #3



Yuri Iozzo <e.svidritskiy@gmail.com>

Question about being included into the automatic payment

questions@pennyarcadesettlement.com <questions@pennyarcadesettlement.com>
To: Yuri Iozzo <e.svidritskiy@gmail.com>

Tue, Aug 29, 2017 at 12:01 PM

Good Afternoon,

Thank you for your email.

According to our records, you are entitled to an automatic payment. You do not have to do anything in order to receive that payment, as long as you do not exclude yourself from the Settlement. The payment will be made automatically, either by a credit to your TD Bank Account or, if you no longer have a TD Bank Account, by check mailed to you at the address TD Bank has on file.

If you **also** made some Penny Arcade transactions at a time when you did **not** hold a TD Bank Account, you must submit a Claim Form listing **only** those transactions you made when you **did not** have an account.

If you need to update your name, you must provide a copy of your [Name Change Documents] or similar document showing your name change. Please do not submit original documents, as these will not be returned.

If you have any further questions, please feel free to contact us.

Regards,

Settlement Administrator (ED)

questions@PennyArcadeSettlement.com

(855) 312-1974

From: Yuri Iozzo [mailto:e.svidritskiy@gmail.com]

Sent: Friday, August 25, 2017 10:23 PM

To: questions@pennyarcadesettlement.com

Subject: Question about being included into the automatic payment

[Quoted text hidden]

If you have received this communication in error, please destroy all electronic and paper copies; do not disclose, use or act upon the information; and notify the sender immediately.

December 5th 2011

30 DAYS DEMAND LETTER

From:

Egor Svidritskiy,
185 Old Mill Rd,
Shrewsbury, MA 01545

To:

TD Bank Branch,
1227 Main St,
Worcester, MA 01603

On November 28th I came to the TD Bank branch at 1227 Main St and opened a savings account. Then I used the self-service coin-counting machine ('Penny Arcade') to exchange my bag of coins into bills. I had \$750 in US dimes. I know exactly that I had \$750 because I took these coins directly from 3 (three) Federal Reserve boxes of dimes which were \$250 each. The coin machine counted my coins, during which the teller changed the coin bag in the machine twice. The teller had a hard time starting the machine after the first bag change. When the teller removed more bags from the coin machine (as I understood these coin bags were not full) the coin machine started to work again. After depositing all my coins the teller printed a receipt for me from the machine which showed that I only deposited \$645.18. It is impossible because I only deposited dimes. I reported to the teller and bank manager that the coin machine calculated coins incorrectly. I was told that bank checks the machine twice a day, regardless sometimes the machine malfunctions. The manager told me that this kind of situation is rare because people usually do not know how much change they bring in. But as I understand they had several situations when people knew the amount of change deposited to machine and the machine counted the coins incorrectly. I was told that in 3 weeks the bank would receive information from the Federal Reserve as to exactly how much money was deposited into the machine and, if there was an excess found, my loss would be reimbursed. Two days later I spoke with branch manager about my problem and she told me that they will receive information from the Federal Reserve only after 4-6 weeks. This is completely unacceptable to me. Since this situation has happened before, the bank should quickly send all bags of coins for expedited counting to resolve a customer's problem. Now what can happen the machine can make the mistake again and the bank will not be able to figure out which part of the excess money belongs to me. I want to add that I found on the Internet many complaints from other TD Bank customers about the 'Penny Arcade'. They complained after the fact that the machine calculated coins incorrectly (not in to the customer's favor).

So, I find it unacceptable that the bank did not warn me that their coin machine is not precise enough and can cause this kind of problem. Also, the bank did not notify me in advance about their refund policy in case of a coin machine malfunction.

According to Massachusetts law I send this letter to the TD Bank branch where my problem happened. I want the remainder of my money, \$104.82, which I did not originally receive and should have. I would like the money deposited to my account or paid directly to me by check or cash within 30 days (which should be not later than January 10th 2012).

Egor Svidritskiy

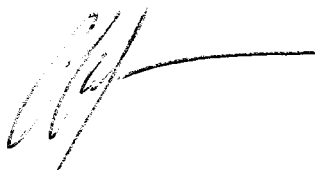


Exhibit #5



Yuri Iozzo <e.svidritskiy@gmail.com>

Complaint - e.svidritskiy@gmail.com

1 message

Consumer (SCA) <consumer@state.ma.us>
To: e.svidritskiy@gmail.com

Fri, Dec 16, 2011 at 1:11 PM

Dear Mr. Svidritskiy,

Thank you for your email concerning the coin counting machine at your TD Bank. The Office of Consumer Affairs and Business Regulation provides consumers with basic information about their rights and responsibilities. However, this office does not have general enforcement powers with respect to individual complaints. Other agencies perform such services.

You may wish to verify that the machine in question did not charge a fee for using coin counting functionality, as many machines do.

If you find that the fees are either zero or less than the approximately 14% discrepancy, you should contact the Massachusetts Attorney General's Office to file a formal complaint against TD Bank and the coin counting vendor they use. See their contact information below.

Office of the Attorney General
One Ashburton Place
Boston, MA 02108
(617) 727-8400
<http://www.mass.gov/ago>

I hope you find this information helpful.

Sincerely,
Michael D.
Consumer Affairs Specialist

*****Your Inquiry*****

Your Name: Egor Svidritskiy
Address:
185 Old Mill Rd
Shrewsbury, MA 01545
Preferred Phone Number: 5089817322

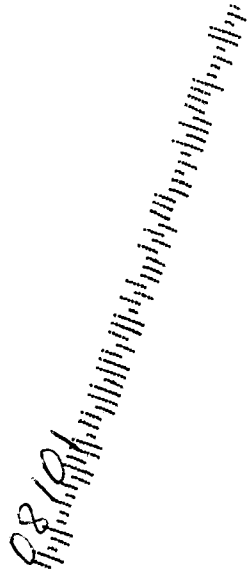
Company Info (if applicable):
TD Bank
1227 Main St
Worcester, MA 01603
5087934188

Consider this a: Complaint

I used self service coin counting machine at that branch of TD Bank. I had exactly \$750 in dimes (I know exactly because I took them from 3 Federal Reserve boxes which are \$250 each). But machine counted only \$645.18 which is almost \$105 less than it should be. Manager told me that they check machine twice a day, but anyway they had several cases in the past when machine malfunctioned. So they proposed to me to wait 4-6 weeks until the coins from machine will be sent to the Federal Reserve and counted there. I can not afford to wait so long, I am not a rich person. And it was 100% bank fault. Also, they mentioned one suspicious thing: that usually people do not complain because they do not know exactly how much change do they have. Sounds like this machine should not be legal because as my opinion this machine malfunctions pretty often. Unfortunately, I do not have any proofs and only one proof I have is that they now have excess of coins in their!



Clerk of the Court
US District Court for the
District of New Jersey
Mitchell H. Cohen Building &
US Courthouse
4th & Cooper Streets
Room 1050
Camden NJ 08102



Uri Iozzo
5 Cedar St
Camden, MA 01501